

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DOCKET NO.: 04CR10160 WGY

FILED
IN CLERKS OFFICE

2005 JUN -6 PM 3:48

U.S. DISTRICT COURT
DISTRICT OF MASS.

UNITED STATES OF AMERICA)
)
V.)
)
ANSELMO DOMINGUEZ)

MOTION TO DISMISS

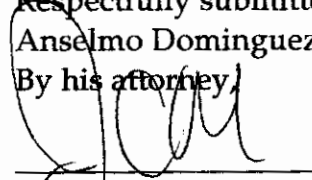
Now comes Anselmo Dominguez and moves this Honorable Court to dismiss the indictment now pending against him.

In support of the foregoing, the defendant states that the prosecution has failed to disclose material, exculpatory evidence, in a timely fashion, before trial.

Specifically, defense counsel was only recently apprised of various representations made to the informant in this case. These representations would lead a reasonable person to believe that the government would provide aid or assistance to him in connection with his desire to obtain an S-Visa. In addition, defense counsel was only recently provided with evidence of prior inconsistent statements made by the same informant.

These statements relate to a material issue in the case and were never previously provided to defense counsel.

Respectfully submitted,
Anselmo Dominguez,
By his attorney,



John C. McBride
B.B.O#: 326960
McBride & Natola
240 Commercial Street, 2B
Boston, MA. 02109
(617) 367-8844

CERTIFICATE OF SERVICE

John C. McBride hereby certifies that he forwarded the attached Motion to Dismiss the following individuals on this date via facsimile and/or hand delivery.

Bonnie Smith
Clerk for Judge William Young
United States District Court
John Joseph Moakley U.S. Courthouse
1 Courthouse Way, Suite 6410
Boston, MA 02210

Cynthia Lie, A.U.S.A.
United States Attorney's Office
U.S. Courthouse, Suite 9200
1 Courthouse Way
Boston, MA 02210



John C. McBride

Dated: June 6, 2005



U.S. Department of Justice

United States Attorney
District of Massachusetts

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U.S. DISTRICT COURT
DISTRICT OF MASS.

Main Reception: (617) 748-3100

United States Courthouse, Suite 9200
1 Courthouse Way
Boston, Massachusetts 02210

June 2, 2005

VIA HAND DELIVERY

John C. McBride, Esq.
McBride and Natola
240 Commercial Street
Boston, MA 02109
FAX: 617-523-5153

Re: United States v. Anselmo Dominguez
04-CR-10160 WGY

Dear John:

Enclosed are additional toll records I recently received, a DEA 6 prepared yesterday on June 2, 2005, as well as a copy of N-65 which you have already received. Also, enclosed are copies of finalized transcripts you have already received; however, call 5500 had a typographical error and the correct time is 8:30 PM; call 5261, line 27 has also been corrected. Moreover, as per your request, I have inquired with the case agent concerning any additional benefit promised to the CW other than what is in the plea agreement; the case agent informs me that while he in no way promised the benefit of an S-Visa, he agreed to look into the process for the CW.

Please feel free to contact me with any questions at (617) 748-3183. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "C. W. Lie".

CYNTHIA W. LIE
Assistant U.S. Attorney

Encl.

U.S. Department of Justice
Drug Enforcement Administration

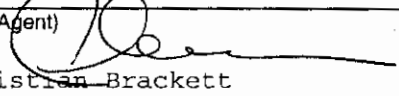
REPORT OF INVESTIGATION

Page 1 of 2

1. Program Code	2. Cross File Related Files	3. File No. [REDACTED]	4. G-DEP Identifier [REDACTED]
5. By: SA Christian Brackett At Boston, Group 1	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	6. File Title ROSARIO, Juan	
7. <input type="checkbox"/> Closed <input type="checkbox"/> Requested Action Completed <input type="checkbox"/> Action Requested By:		8. Date Prepared 06-02-2005	
9. Other Officers: AUSA Cynthia Lie, AUSA Jennifer Zacks			
10. Report Re: Proffer of Juan ROSARIO on 06-02-2005			

DETAILS

- On June 6, 2005, SA Christian Brackett, AUSA Cynthia Lie and AUSA Jennifer Zacks met with Juan ROSARIO at the United States Attorney's Office in Boston, MA to prepare for an upcoming trial. During the meeting, SA Brackett played several telephone conversations for ROSARIO, which were recorded during a wire intercept over telephone number 917-912-9106 between February and March 2004. While listening to the conversations, ROSARIO reviewed transcripts that were prepared of the calls and was asked whether they were accurate.
- After listening to call #5261 and reviewing the transcript, ROSARIO stated that line #27 of the transcript, which read "Tres medios, muchacho, de esos" (translated to "three halves, man of those ones") was not correct. ROSARIO stated that during this part of the conversation he said, "De medio, muchacho de eso", (which translates to "half of one of those guys"). ROSARIO stated that during the call, "half of one of those guys" was a coded reference to half a kilogram of cocaine.
- While being questioned about the calls that he had listened to, ROSARIO stated that he engaged in approximately 5 prior cocaine

11. Distribution: Division	12. Signature (Agent)  SA Christian Brackett	13. Date 6-2-2005
District	14. Approved (Name and Title) Youngjae Kim Group Supervisor	15. Date 6/2/05
Other		

DEA Form - 6
(Jul. 1996)

CB

3 - Originating Office

DEA SENSITIVE
Drug Enforcement Administration

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U.S. Department of Justice
Drug Enforcement Administration

REPORT OF INVESTIGATION (Continuation)	1. File No. [REDACTED]	2. G-DEP Identifier [REDACTED]
	3. File Title ROSARIO, Juan	
4. Page 2 of 2	6. Date Prepared 06-02-2005	
5. Program Code		

transactions with DOMINGUEZ. In response to this, SA Brackett, AUSA Lie and AUSA Zacks questioned ROSARIO about why he previously stated he only engaged in 2 to 3 cocaine transactions with DOMINGUEZ. ROSARIO stated that at the time he only remembered those deals but after listening to the calls and reviewing evidence he remembered engaging in additional transactions with DOMINGUEZ. ROSARIO believes that he previously engaged in one transaction with DOMINGUEZ for a kilogram of cocaine and the rest of the transactions were for a ½ kilogram.

INDEXING

1. DOMINGUEZ, Anselmo - NADDIS [REDACTED]

Diane
I got this
Friday
afternoon

Fernando